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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,559	03/17/2004	Jeff Summers	09741620-0409	3724
26263	7590	11/23/2005		
SONNENSCHN NATH & ROSENTHAL LLP P.O. BOX 061080 WACKER DRIVE STATION, SEARS TOWER CHICAGO, IL 60606-1080			EXAMINER YEAGLEY, DANIEL S	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,559

Applicant(s)

SUMMERS ET AL.

Examiner

Daniel Yeagley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 14 and 15 are objected to because of the following informalities:

Claim 14, the term "*the* first and second tie rods" lack proper antecedent basis.

Claim 15, the term "*the* steer tube" lack proper antecedent basis.

Appropriate corrections are required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 32 and 35 –38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 32 the term "type" is considered indefinite.

Regarding claims 35 – 38, the method claims are objected to because it has been held that to be entitled to weight in method claims, the recited structure limitations therein must effect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 23 – 25, 27 – 30, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Doveri '476.

Doveri shows a vehicle comprising a frame having a rear end formed as a fixed fork being supported by a rear axle assembly with a rear wheel 22 (figure 9), wherein the frame includes a front end being supported by a front axle assembly which provides an Ackerman-type steering assembly (figure 3) connected to two front wheels 21 and includes a stem having a lower portion connected to the front axle assembly with a handlebar 5 having a primary axis and connected to an upper portion of the stem, and includes a deck supported by the frame rearward of the front axle assembly, such that the deck has a sufficient surface area to allow a rider to stand thereon during operation of the vehicle, and further shows a plate (seat) supported by a post on the frame positioned at a height substantially even with a rider's knees (average rider) when the rider straddles the plate (figure 9), such that the height of the plate appears adjustable via a seat post, such that the pad (seat surface) is shaped so as to comfortably fit between a rider's legs during operation of the vehicle,

6. Claims 23 – 30 and 35 – 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson '435.

Wilson shows a vehicle comprising a frame having a rear end formed as a fixed fork being supported by a rear axle assembly with a rear wheel 13 (figure 1), wherein the frame includes a front end being supported by a front axle assembly connected to two front wheels 11,

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12 and includes a stem having a lower portion connected to the front axle assembly with a handlebar (steering wheel) having a primary axis and connected to an upper portion of the stem, and includes a deck 45 supported by the frame rearward of the front axle assembly, such that the deck has a sufficient surface area to allow a rider to stand thereon during operation of the vehicle, and further shows a plate (seat) supported by a post on the frame positioned at a height substantially even with a rider's knees (average rider) when the rider straddles the plate, such that the height of the plate is adjustable, wherein a pad 15 (seat surface) is shaped so as to comfortably fit between a rider's legs during operation of the vehicle, and further includes a crank having two pedals connected at opposite ends of the crank, wherein the post also supports the crank, such that when the rider stands on the pedals the plate is between the rider's knees, such that the vehicle of Wilson is capable of performing the method as claimed.

7. Claims 1 – 15, 17, 18, 20, 21 and 35 – 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Heidt '177.

Heidt shows a vehicle comprising a frame having a rear end formed as a fixed fork supported by a rear axle assembly with a rear wheel 101, wherein the frame includes a front end being supported by a front axle assembly connected to two front wheels (figure 2), wherein the front axle assembly includes a main axle 216 connected to the two front wheels 106, 107 positioned rear of a first and second tie rod 221, 222, such that the tie rods are connected to the front two wheels in front of the main axle (figures 1, 5), and includes a stem having a lower portion connected to the front axle assembly with a handlebar 104 having a primary axis connected to an upper portion of the stem, such that the stem is shaped such that a primary axis

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of the handlebar is positioned forward of the front axle assembly, the front axle assembly includes a steer tube connected to the stem and the two front wheels, such that the steer tube rotates with the stem in a predetermined range of motion determined by the first and second tie rods connected to the front two wheels, wherein the stem is connected to the steer tube via a headset and head tube and is adjustable in height, and further shows a crank having two pedals connected at opposite ends driving the rear wheel, wherein a chain wheel and chain are connected to the crank and the rear wheel by an inherent freewheel hub gear system (figure 1, column 2), and includes an inherent adjustable plate via the seat post, wherein the plate comprising a pad 108 supported by a post on the frame positioned at a height substantially even with a rider's knees when an average rider straddles the plate, wherein the post also supports the crank, such that when the rider stands on the pedals the substantially vertically-oriented plate is between the rider's knees and the pad is shaped to comfortably fit between a rider's legs during operation of the vehicle, and further the frame includes a deck (frame portion 111 or 107) which is supported by the frame rearward of the front axle assembly and comprises a surface that is of a sufficient surface area to allow a rider to stand on during operation of the vehicle as broadly claimed, wherein the deck comprises a center portion and two side portions, the two side portions formed at a decline from the center portion, and further includes a crank with two pedals, wherein the deck is mounted at a vertical height with respect to a ground, such that the crank has a center that is positioned at approximately the same vertical height with respect to the ground as the deck (lower portion of the deck 111 at the crank), such that the vehicle of Heidt is capable of performing the method as claimed.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heidt '177 in view of Cummings '215.

Heidt disclosed a vehicle comprising a frame with a front axle assembly connected to a lower portion of a stem with a handlebar 104 having a primary axis connected to an upper portion of the stem, but failed to show the upper portion of the stem being positioned forward of the lower portion of the stem.

Cummings also shows a vehicle having a two wheeled front axle assembly connected to a lower portion of a stem with a handlebar having a primary axis connected to an upper portion of the stem (figure 1, 4) which clearly shows the feature of constructing the stem with an upper portion being positioned forward of the lower portion of the stem.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified or replaced the stem component of Heidt steering apparatus with an alternative or modified stem having a forward extending portion with respect to the lower portion of the stem as suggested by the stem of Cummings simply as a matter of design choice and in order to easily provide a simple means to position the handlebars in a preferred orientation by utilizing a different oriented stem arrangement obviously dependent only upon user preference.

10. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heidt '177 in view of Corneau '860.

Heidt disclosed a vehicle comprising a frame with a front axle assembly connected to a front end of a frame, that includes a deck having a center portion and two side portions, wherein the two side portions are formed at a decline from the center portion (frame portion 111 or 107) which is supported by the frame and is rearward of the front axle assembly, wherein the deck comprises a surface that is of a sufficient surface area to allow a rider to stand on during operation of the vehicle, and further includes a crank with two pedals, wherein the deck is mounted at a vertical height with respect to a ground, wherein the crank has a center that is positioned at approximately the same vertical height with respect to the ground as the deck (lower portion of the deck 111 at the crank), but failed to disclose a deck that is substantially flat.

Corneau shows a three wheeled vehicle comprising a deck rearward the front axle assembly, wherein the deck 40 comprises a substantially flat surface (figure 2 and 5, column 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the deck of Heidt with an alternative deck or deck surface connected to the frame which consists of a flat surface in order to provide the rider with a broader more secure deck surface to rest the foot of the rider thereon, if the rider becomes tired as suggested by the deck of Corneau, wherein alternate surfaces; such as foot rests or crown decks at the front end of the frame are commonly utilized on cycle frames, to provide the rider an alternate position to rest ones legs if desired, other than just on the pedals and would have been an obvious matter of design choice.

11. Claims 19 and 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heidt '177 in view of Ehrlich '913.

Heidt disclosed a vehicle comprising a front axle assembly connected to a front end of a frame, having a deck supported rearward the front axle assembly capable of supporting the foot of the rider and included a crank with two pedals, wherein the deck is mounted at a vertical height with respect to a ground and the crank has a center that is positioned at a vertical height with respect to the deck, but failed to disclose the deck surface being flat and having the center of the crank at a positioned slightly above the vertical height of the deck.

Ehrlich shows a wheeled vehicle comprising a deck rearward the front axle assembly, wherein the deck 27 comprises a substantially flat surface and shows the crank having a center being positioned slightly above the vertical height of the deck as claimed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the three-wheeled vehicle of Heidt with an alternative body frame such as shown by Ehrlich consisting of a flat deck mounted at a vertical height with respect to the ground in combination with a crank center positioned slightly above the vertical deck in order to enhance the usage of Heidt vehicle by providing a combination frame structure capable of being utilized as both a bicycle type vehicle and a scooter type vehicle as taught by Ehrlich.

12. Claims 31, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cummings '266 in view of Jones et al '370.

Cummings shows a vehicle comprising a frame having a rear end formed as a fixed fork supported by a rear axle assembly with a rear wheel, wherein the frame includes a front end

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being supported by a front axle assembly connected to two front wheels and includes a stem having a lower portion connected to the front axle assembly with a handlebar connected to an upper portion of the stem, such that the front axle assembly includes a steer tube connected to the stem and the two front wheels, wherein the steer tube rotates with the stem in a predetermined range of motion determined by a first and second tie rod, wherein the first and second tie rods are connected to the front two wheels in front of the front axle (figure 1), wherein the stem is shaped such that a primary axis of the handlebar is positioned forward of the front axle assembly and wherein the upper portion of the stem is forward the lower portion of the stem, wherein the front axle assembly includes a main axle connected to the two front wheels with the tie rods connected to the front wheels in front of the main axle, wherein the front wheels have an enlarged tire tread width in comparison to the width of the stem as viewed from figure 1, but was silent about the specific tire tread width of at least 3 inches.

Jones shows a three-wheeled vehicle comprising a two wide width front wheels (tires) that includes a forward tie rod arrangement, wherein Jones discloses the feature of utilizing various wider width tires dependent upon the intended riding terrain (column 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the three-wheeled vehicle of Cummings with alternative wider width tires, as suggested by Jones, since it is known to use wider width tires dependent upon the environment in which the vehicle is to be used and an obvious matter of design choice and since applicant has not disclosed that wider tires solve any stated problem or is for any particular purpose and it appears that the invention would perform equally as well with narrow tires.

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Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Coil '344, Jones '933 and Shimada '056 show a vehicle having a deck and a plate and pad supported on a post.

Hayashi '824, Trammell, Jr. '847, Trautwein '663, Klopfenstein '506, SooHoo '351, shows a three wheeled vehicle similar to applicant invention.

Hare '817 disclose a three-wheeled vehicle with wide width wheels.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is (571)-272-6655. The examiner can normally be reached on Mon. - Fri; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on (571) - 272 - 6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.Y.



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